

AUG - 1 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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*Attorneys for Defendant Eric John
Tudela Mafnas*

UNITED STATES DISTRICT COURT
NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**ERIC JOHN TUDELA MAFNAS and
CHARLES K. PATRIS,**

Defendants.

CRIMINAL CASE NO. 04-00038

***MOTION IN LIMINE: TO SUPPRESS
ALLEGED FICTITIOUS WARRANT***

Time: 9:00 a.m.
Date: August 01, 2005
Judge: _____

NOW COMES the Defendant, Eric John Tudela Mafnas, through counsel Victorino DLG. Torres and Stephanie Flores in the above-entitled case, and respectfully moves this Honorable Court for an Order in Limine instructing the District Attorney to refrain absolutely from making any direct or indirect reference whatsoever in person, by counsel, or through witnesses to the specific evidence or testimony.

1. Trial is set to begin on Monday, August 01, 2005 at 9:00 a.m.
2. According to the indictment, the trial will involve a determination of these basic issues: Whether Defendant stole \$2,530 and took approximately \$300.00 worth of "ice" from a drug trafficker; whether Defendant took approximately 46 grams of ice from DPS evidence room; whether Defendant embezzled, stole or obtained by fraud property belonging to DPS worth more than \$5,000.00; whether Defendant

1 had possession with intent to distribute “ice”; and whether Defendant made false
2 statements before an FBI agent and committed perjury before a grand jury

3 3. On Friday, July 29, 2005, the Defendant was informed by Mr. Timothy Moran,
4 District Attorney, that if Defendants introduced the “non-prosecutorial agreement”
5 it had with the Government witnesses— Mr. Moran will introduce in evidence
6 that Defendants procured a “fictitious” arrest warrant.

7 4. This “fictitious” warrant is entirely immaterial and unnecessary to the disposition
8 of this case and contrary to the rules of evidence. Fed. R. E 402. “Evidence which
9 is not relevant is not admissible.” Any admission, directly or indirectly, of such
10 evidence would be highly prejudicial to the Defendant in the minds of the jury in
11 that it would presume that Defendants used these fictitious warrants to obtain
12 contraband (relevant to this case) for their benefit. Additionally, the jury may
13 implicate that the fictitious warrant is related to the pending case, when in fact, it
14 is entirely unrelated.

15 5. Even if the Prosecution can weave some relevancy to the case, the probative value
16 is substantially outweighed by the danger of unfair prejudice, confusion of the
17 issues, or misleading the jury. Fed. R. E 403.

18 6. An ordinary objection during the course of trial, even if sustained with proper
19 instructions to the jury will not remove such effect, in view of the magnitude of
20 assumption that the Defendants are above the law and have betrayed the public
21 through their entrusted position as police officers of this community. Such
22 evidence is highly prejudicial and no instruction could properly cure the undue
23 prejudice.

24
25 WHEREFORE, Defendant respectfully urges this Court to exercise its discretion and
26 make an order absolutely prohibiting the said offer or reference thereto.
27
28

1 Respectfully Submitted, 08 / 01 / 2005.

2 **TORRES BROTHERS, LLC.**

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4 VICTORINO D.G. TORRES

5 STEPHANIE G. FLORES

6 Attorneys for Eric John Tudela

7 Mafnas, Bar Number: 60253

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